

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN PACHELLA,

Plaintiff,
v.

ARRIVO ACCEPTANCE, LLC, et al.,

ORDER

23-CV-01090 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

Stephen Pachella (“Plaintiff”) commenced this action on February 8, 2023 against Defendants Arrivo Acceptance, LLC, Garff Enterprises Inc., and Robert Avery. (Doc. 1). On February 22, 2023, Plaintiff filed a First Amended Complaint which added John Garff as a Defendant (Doc. 7) and dismissed the action as to Garff Enterprises Inc (Doc. 9). On June 16, 2023, Plaintiff filed a Second Amended Complaint with leave of the Court asserting claims for retaliation under the New York Labor Law and slander *per se* under New York common law. (Doc. 21).

On July 31, 2023, Defendants Arrivo Acceptance, LLC, John Garff, and Robert Avery (together, “Defendants”) moved to transfer this action to the Central Division of the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1404(a), or alternatively, to dismiss the action for lack of personal jurisdiction and failure to state a claim upon which relief can be granted pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6). (Doc. 33; Doc. 34; Doc. 35). Plaintiff opposed on August 23, 2023 (Doc. 36; Doc. 37) and the motion was fully submitted upon the filing of Defendants’ reply on September 21, 2023 (Doc. 38; Doc. 39).

On June 11, 2024, the parties were notified that an oral ruling would be issued at a conference on June 13, 2024 in Courtroom 520 of the White Plains courthouse. (Doc. 40). Both

parties notified the Court that they were unavailable to attend the June 13 conference. (Doc. 41; Doc. 43). The Court advised the parties that it would not hear arguments from counsel at the June 13 conference and that they may obtain copies of the transcript following the issuance of the Court's oral ruling. (Doc. 42; Doc. 44).

Neither party appeared at today's conference. For the reasons indicated on the record and law cited therein, the Court GRANTED Defendants' motion to transfer venue to the to the Central Division of the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1404(a). The Court declined to reach the motion to dismiss for lack of personal jurisdiction and for failure to state a claim. (See Transcript.)

The Clerk of Court is respectfully directed to (i) terminate the motion sequence pending at Doc. 33; and (ii) transfer this action to the Central Division of the United States District Court for the District of Utah pursuant to Local Civil Rule 83.1.

SO-ORDERED:

Dated: White Plains, New York
June 13, 2024


Philip M. Halpern
United States District Judge